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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,264	12/09/2003	Gregory H. Loibl	6011.005.200	4708
7590	06/02/2004		EXAMINER	
Levisohn, Berger & Langsam LLP			DRAKE, MALIK N	
19th Floor				
805 Third Avenue			ART UNIT	
New York, NY 10022			PAPER NUMBER	
			3744	

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/731,264	Applicant(s) LOIBL ET AL.	
	Examiner Malik N. Drake	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/9/03.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-127 is/are pending in the application.
- 4a) Of the above claim(s) 1-125 and 127 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 126 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/14/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 126 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loibl et al. (U.S. Patent No. 5,505,054), hereinafter Loibl.

The invention of Loibl discloses apparatus for rapidly cooling a liquid in a container comprising a housing (1) having a bottom and side walls defining an interior volume; a rotating mechanism (3a-f) having a longitudinal axis disposed in the housing adapted to rotate a container about the container's longitudinal axis; a source (7a) of a thin film of a cooling medium; wherein when the container is placed within the interior volume, the thin film of cooling medium thermally communicates with the container while the rotating mechanism rotates the container. (See the abstract; see also figure 4.)

Although disclosing the housing being part of a refrigeration system, Loibl does not specifically disclose a household refrigerator.


At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the container be part of a household refrigerator because Applicant has not disclosed that making the container part of a household refrigerator provides an advantage, is used for a particular purpose,

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or solves a stated problem. Furthermore, one of ordinary skill in the art would have expected Applicant's invention to perform equally well with a portable refrigerator because both refrigerators perform the function of rapidly cooling canned beverages equally well considering the typical size and shape of a canned beverage.

Conclusion

Any inquiry concerning this communication should be directed to Examiner Malik Drake at telephone number (703) 305-0249 and/or fax number (703) 872-9306. The Examiner's work schedule is 9:30am – 8:00pm, Monday through Thursday.


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SUPERVISORY PATENT EXAMINER
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